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BEFORE THE
PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Joint Application of Southern California Edison)
Company (U 338-E) and San Diego Gas &)
Electric Company (U 902-E) For the 2015)
Nuclear Decommissioning Cost Triennial)
Proceedings)
_____)

Application 16-03-004
(Filed March 1, 2016)

**ALLIANCE FOR NUCLEAR RESPONSIBILITY'S
PREHEARING CONFERENCE STATEMENT**

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Date: June 6, 2016

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PREHEARING CONFERENCE STATEMENT

Pursuant to the May 10, 2016 Ruling of Administrative Law Judge Maribeth Bushey, the Alliance for Nuclear Responsibility (“A4NR”) files its Prehearing Conference Statement in A.16-03-004. In response to each of the enumerated items in the Ruling, A4NR offers the following:

1. A4NR supports the consolidation of each of the four proceedings, and defers to the Meet and Confer Report regarding the efficiencies expected from such consolidation.
2. A4NR supports the Meet and Confer Report’s proposed schedule and phasing. During the meet-and-confer process, A4NR registered one area of disagreement with SCE and SDG&E regarding the scope of the consolidated proceeding: that a pro-active review of the cost ramifications of major utility decisions on spent fuel management should be incorporated into either Phase 2 or Phase 3 rather than deferred to subsequent proceedings.
3. Apart from the one general concern voiced in the preceding paragraph, A4NR defers to the Meet and Confer Report.
4. At this point, A4NR envisions focusing its Phase 2 participation on the reasonableness of 2013-2014 SONGS nuclear fuel contract cancellation expenses and has not determined the extent of its participation in Phase 3. A4NR will participate in the Phase 2 workshops and may broaden its participation to address other Phase 2 issues. Because A4NR has just begun review of data responses it received from SCE on June 3, 2016, no decision has yet been made on whether A4NR will submit testimony in Phase 2 or Phase 3.

5. A4NR considers this question premature for Phase 2 and Phase 3, and suggests the topic be revisited in a prehearing conference before commencement of each phase of this consolidated proceeding.
6. A4NR considers this question premature for Phase 2 and Phase 3, and suggests the topic be revisited in a prehearing conference before commencement of each phase of this consolidated proceeding.
7. A4NR defers to the Meet and Confer Report on each of these subjects.
8. Based upon the two SCE responses to A4NR data requests which are attached, A4NR suggests that SCE be requested to seek guidance from the Internal Revenue Service concerning deposits into the SONGS qualified trusts of ISFSI-related cost reimbursements received from the federal government.

Respectfully submitted,

By: /s/ John L. Geesman

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Southern California Edison
NDCTP 2015 A.16-03-004 A.16-03-004

DATA REQUEST SET A.16-03-004 A4NR-SCE-001

To: A4NR
Prepared by: Alfred Lopez
Title: Principal Advisor
Dated: 05/19/2016

Question 1:

At the April 18, 2016 final oral argument in A.14-12-007, SCE Chief Nuclear Officer Thomas Palmisano had the following exchange with ALJ Maribeth Bushey:

ALJ BUSHEY: I just have a quick follow-up question. Did you say you're refunding it [litigation recoveries from DOE] through the ERRA? Shouldn't it be used as an offset to decommissioning costs?

MR. PALMISANO: Currently it is refunded through the ERRA process, because this was set up when the plant was operating. So that was an appropriate mechanism when the plant was operating and with the second settlement. Through 2013, essentially the year the plant closed. What we will consider internally is what is the appropriate mechanism. Should it be credited to the decommissioning fund, because going forward now, the dry gas [sic] storage funds will be expended out of the decommissioning trust, as opposed to out of a rate case project. We will reconsider that, but currently the mechanism is the ERRA process. (Transcript, pp. 543 – 544.)

Has SCE identified any tax-related or other impediment to depositing litigation recoveries from DOE in the Nuclear Decommissioning Trusts?

Response to Question 1:

SCE objects to the request to the extent the scoping memo has not been issued for this proceeding and the issue is determined to be out of scope. Subject to and without waiving this objection, SCE responds as follows:

SCE has identified tax-related impediments that should be resolved before proposing to deposit litigation recoveries from DOE into qualified nuclear decommissioning trusts. See response to Question No. 2 for details of the tax-related impediments.

Southern California Edison
NDCTP 2015 A.16-03-004

DATA REQUEST SET A.16-03-004 A4NR-SCE-001

To: A4NR
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Question 2:

If the answer to Question 1 is affirmative, please describe each such impediment and any potential responses thereto which SCE has preliminarily identified.

Response to Question 2:

SCE objects to the request to the extent the scoping memo has not been issued for this proceeding and the issue is determined to be out of scope. Subject to and without waiving this objection, SCE responds as follows:

SCE has identified two impediments and discusses each of them below.

#1 - Consistency With SCE's Private Letter Ruling (PLR) - SCE received a favorable PLR from the IRS ruling that SCE could withdraw funds from qualified nuclear decommissioning trusts to pay for ISFSI-related costs that are subject to subsequent DOE reimbursements that will be "refunded to ratepayers, with interest, through ratemaking mechanisms." The PLR was describing SCE's ERRA balancing account mechanism. The PLR provides SCE with a protection against future IRS audits with regard to the use of qualified nuclear decommissioning trusts funds to pay for ISFSI-related costs, but only to the extent that the facts associated with the actual transactions are consistent with those described in the PLR. If the regulatory treatment of DOE reimbursements (i.e., the facts) will be different than specifically described in the PLR (i.e., not "refunded to ratepayers, with interest, through ratemaking mechanisms"), then SCE's audit protection from the PLR could be jeopardized and a resulting disqualification of the entire qualified nuclear decommissioning trusts under Internal Revenue Code §468A could be at risk. To mitigate these risks, another private letter ruling should be sought with the new facts.

#2 - Ensure That Contributions Can Be Made Back Into Qualified Decommissioning Trusts - Contributions into a qualified decommissioning trust and the amount of the contributions are limited to only the "schedule of ruling amounts" that is issued by the IRS. SCE has not made contributions into the SONGS qualified decommissioning trusts since 2014 and should seek guidance from the IRS on whether SCE can now begin again to make contributions back into its qualified decommissioning trusts and, if so, the amounts that can be contributed each year.